

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-13159-2024
Decided On: 14.03.2024**

BHINDER KAUR

.....PETITIONER(s)

Versus

STATE OF PUNJAB

.....RESPONDENT(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Gaurav Arora, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J.(Oral)

1. This is the petition under Section 438 Cr.P.C., praying for anticipatory bail in case FIR No.39 dated 01.09.2023 under Section 21/29/61/85 NDPS Act, registered at Police Station Dharamgarh, District Sangrur.
2. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the case in hand, which is evident from the fact that neither was he present along with the co-accused when the alleged recovery of 40 gms of heroin was effected nor was he named in the secret information; he came to be nominated as an accused on the basis of disclosure statement allegedly suffered by co-accused Lakhwinder Singh. Learned counsel for the petitioner has submitted that the evidentiary value of such a disclosure statement is of a weak nature and thus, he deserves to be extended the extraordinary concession of anticipatory bail.

3. On a pointed query put to the learned counsel for the petitioner, as to whether the petitioner is involved in any other criminal case, he has submitted that petitioner is involved in one other case under the NDPS Act. In support, learned counsel for the petitioner submits that in similar circumstances, the Hon'ble Supreme Court in SLP(Criminal) No.1566/2023, titled as "*Vijay Singh Vs. The State of Haryana*" decided on 17.05.2023, had extended the concession of anticipatory bail to a co-accused, who too was involved in another case under the NDPS Act.

4. Notice of motion.

5. On asking of the Court, Mr. Amit Rana, Sr. DAG, Punjab, accepts notice on behalf of the official respondents.

6. Learned State counsel has vehemently opposed the prayer made by the learned counsel for the petitioner. Learned State counsel, on instructions from HC Sahil Kumar, has submitted that the petitioner is not involved in only one case under the NDPS Act but he has a history of being involved in a string of NDPS cases, as it is a matter of record that he has previously also been involved in cases under the NDPS Act. Hence, he is a habitual offender and is an active member of a drug racket operating in the State of Punjab. Learned State counsel, on further instructions, has submitted that the petitioner committed the crime in question, while he was on bail in the other cases registered against him under the NDPS Act from which it was evident that he had misused the concession of bail, which had been granted to him.

7. I have heard learned counsel for the parties and perused the material placed on record.

8. There is no dispute that in *Vijay Singh’s case (supra)*, Hon’ble the Apex Court did indeed extend the concession of bail to the accused, who was admittedly involved in another case under the NDPS Act. However, a perusal of the said order does not reflect that the accused-petitioner in that case i.e. Vijay Singh was on bail, when he committed the crime in question, whereas in the present case it is a clear case of misuse of concession of bail, which had been granted to him in the previously instituted cases. Hence, *Vijay Singh’s case (supra)* will not come to his rescue.

9. Accordingly, the instant petition stands dismissed.

10. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

14.03.2024

Aman Dua

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No